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UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/724,075	11/28/2000	Tim Bridges	3499-95	6810

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EXAMINER
GRAHAM, CLEMENT B

ART UNIT	PAPER NUMBER
3628	

DATE MAILED: 08/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/724,075	BRIDGES ET AL.
	Examiner	Art Unit	
	Clement B. Graham	3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>05 June 2006</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>*1-14*</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>*1-14*</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1. Claims, 1-14 are pending.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for
all obviousness rejections set forth in this Office action:
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patent ability shall not be negatived by the manner in which the invention was made.

3.   Claims 1-9,12-14, are rejected under 35 U.S.C. 103(a) as being unpatentable over Statement of financial accounting standards No. 133, accounting for derivative instruments and hedging activities by Edmund L. Jenkins (Hereinafter Jenkins Nov, 1998.Vol. 186, Iss.5; 12 pages) in view of Wallman U.S Patent 6, 360, 210.

As per claims 1, 7-8, Jenkins discloses a hedge accounting method implemented by a programmed computer system for reducing periodic earnings volatility associated with a hedged exposure, the method comprising:
processing, data and instructions to account for a financial exposure of an associated hedge item by designating for accounting purposes a portion. ("i. e, percentage") of the value of the financial exposure as being hedged by the hedging instrument. (see page 9-12 of paragraph 18-22) the portion being based on a the delta("i. e, relationship between option price and the underlying futures contract or stock price") of the hedging instrument representing a price sensitivity of the financial exposure with respect to changes in market value. ("i. e, fair value") of an underlying hedge item.(see page 9-12 of paragraph 18-22) and in each of a plurality of sequential periods. ("i. e, future periods "see page 16 paragraph 31") and for accounting purposes of the portion of the financial exposure being hedged by the hedging instrument the delta of the hedging instrument based on changes in price sensitivity of the hedging instrument to reduce periodic earnings volatility associated with a hedging transaction. .(Note abstract and summary see page 9-12 of paragraph 18-22).
Jenkins fail to explicitly teach redesignation .

However Jenkins teaches designation and it would have been obvious to one of ordinary skill in the art that redesignation would have been repeating the designation process of Jenkins.

Jenkins fail to explicitly teach processing data on the computer to compute.

However Wallman discloses, a computer-based system for managing risk underlying a portfolio of assets/liabilities, includes a graphical user interface, a memory (with a custodial feature), a processor and a link to the party incurring the risk, which could include the public markets through publicly traded hedging devices such as puts and calls. The graphical user interface enables the user to enter information about the portfolio, including a list of assets/liabilities, values for each of the assets/liabilities, shares owned or a percentage of each issue as part of the entire portfolio, and an input of what the user wishes to have limited for downside risk ("shielded or protected"). The processor analyzes the portfolio using, among other known techniques, value-at-risk and sensitivity algorithms and probabilistic analysis to determine an expected likelihood of a catastrophic loss in value at a plurality of specified levels and a likely distribution of outcomes for the portfolio over specified periods, and can also calculate the cost of hedging the risk through the purchase of instruments traded in the public markets. (see column 6 lines 10-60).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Jenkins to include processing data on the computer to compute taught by Wallman in order to for an investor can manage and limit the inherent risk in a portfolio.

As per claim 2, Jenkins discloses wherein the hedging instrument comprises an instrument selected from the group consisting of a put option, a call option, and a derivative. (see page 11 paragraph 5).

As per claim 3, Jenkins discloses wherein the accounting comprises accounting in accordance with Financial Standards Accounting Board Statement Number 133. (Note abstract).

As per claim 4, Jenkins discloses wherein the financial exposure is associated with changes in market price of the underlying hedge item, and hedging instrument is

an option to exchange a first amount of the underlying financial instrument at a first price on a maturity date. (see page 21 paragraph 8 and page 9-12 of paragraph 18-22).

As per claim 5, Jenkins discloses wherein the first amount is substantially equal to a total value of the financial exposure. (see).

As per claim 6, Jenkins discloses wherein the underlying instrument selected from the group consisting of currency, a commodity and an interest rate. (see page 5 paragraph 7 and page 8 paragraph 15).

As per claim 9, Jenkins wherein the future exchange comprises an exchange selected from the consisting of a put option and a call option. (see page 11 paragraph 5).

As per claims 10-11, Jenkins discloses a method implemented by programmed computer system for of reducing periodic earnings volatility associated with accounting for a hedging transaction the method comprising:
account for financial exposure for an associated hedging instrument comprising a first and a second part said first part comprising sub-portion and a second sub-portion. (inherent with hedging instrument") wherein changes in the value of the first part substantially offset changes in value of the financial exposure(see page 9-12 of paragraph 18-22)

and executing a computer program module configured to receive data and process computer code instructions to determine size of the first sub-portion relative to a size of the second sub-portion offsets the delta of the second part and effect accounting designations whereby the first sub-portion is designated as a hedge of at least a portion of the financial exposure designation is based on a delta of the hedging instrument representing a price sensitivity of the financial exposure and the second part sub-portion is not designated as a hedge of the financial exposure and the second sub-portion is not designated as a hedge of the financial exposure. (see page 9-12 of paragraph 18-22)

and executing a computer program module configured to receive data and process computer code instructions to determine in each of a plurality of sequential periods a designation for accounting purposes of the size of the first sub-portion designated as a hedge of at least a portion of the financial exposure such that the designation is based

on a delta of the hedging instrument and the designated second sub portion continues to sunstantially effect the delta of the second part to reduce periodic earnings volality associated with accounting for a hedging transaction ("i. e, volality") of the second part.(see page 9-12 of paragraph 18-22) ("i. e, future periods "see page 16 paragraph 31").

Jenkins fail to explicitly teach re-designation.

However Jenkins teaches designation of the portion of the financial exposure based on changed price sensitivity of the hedging instrument, and it would have been obvious to one of ordinary skill in the art that the redesignation of the portion of the first part such that the remainder of the first part offsets the delta of the second part would have been repeating the designation process of Jenkins.

Jenkins fail to teach executing a computer program module configured to receive data and process computer code instructions.

However Wallman discloses, a computer-based system for managing risk underlying a portfolio of assets/liabilities, includes a graphical user interface, a memory (with a custodial feature), a processor and a link to the party incurring the risk, which could include the public markets through publicly traded hedging devices such as puts and calls. The graphical user interface enables the user to enter information about the portfolio, including a list of assets/liabilities, values for each of the assets/liabilities, shares owned or a percentage of each issue as part of the entire portfolio, and an input of what the user wishes to have limited for downside risk ("shielded or protected"). The processor analyzes the portfolio using, among other known techniques, value-at-risk and sensitivity algorithms and probabilistic analysis to determine an expected likelihood of a catastrophic loss in value at a plurality of specified levels and a likely distribution of outcomes for the portfolio over specified periods, and can also calculate the cost of hedging the risk through the purchase of instruments traded in the public markets. (see column 6 lines 10-60).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Jenkins to include executing a computer program module configured to receive data and process computer code

instructions taught by Wallman in order to for an investor can manage and limit the inherent risk in a portfolio.

As per claims 12-13, Jenkins discloses a method of accounting for a hedged exposure, the method comprising: procuring a hedging instrument to hedge a total exposure value of a financial instrument, and prior to each of a series of sequential time periods, a designated portion of the total exposure value based on a current sensitivity of a price of the hedging instrument and the value of the exposure, and account for the hedging instrument as a hedge on the designated portion.("i. e, percentage") of the total exposure value(see page 9-12 of paragraph 18-22) and subsequent to an end of each time period, processing data and to determine a change in the market value("i. e, fair value") of the hedging instrument over a corresponding time period ("i. e, future periods "see page 16 paragraph 31") and determine a change in the market value of the (Note summary and see page 9-12 of paragraph 18-22), designated exposure over the corresponding time period and account for said change in market value of the hedging instrument offsetting said change in market value of the designated exposure as other than earnings. (see page 9-12 of paragraph 18-22).

Jenkins fail to explicitly teach computer system program instructions to cause processing data to calculate.

However Wallman discloses, a computer-based system for managing risk underlying a portfolio of assets/liabilities, includes a graphical user interface, a memory (with a custodial feature), a processor and a link to the party incurring the risk, which could include the public markets through publicly traded hedging devices such as puts and calls. The graphical user interface enables the user to enter information about the portfolio, including a list of assets/liabilities, values for each of the assets/liabilities, shares owned or a percentage of each issue as part of the entire portfolio, and an input of what the user wishes to have limited for downside risk ("shielded or protected"). The processor analyzes the portfolio using, among other known techniques, value-at-risk and sensitivity algorithms and probabilistic analysis to determine an expected likelihood of a catastrophic loss in value at a plurality of specified levels and a likely distribution of outcomes for the portfolio over specified periods, and can also calculate the cost of

hedging the risk through the purchase of instruments traded in the public markets. (see column 6 lines 10-60)

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Jenkins to include processing data on the computer to compute taught by Wallman in order to for an investor can manage and limit the inherent risk in a portfolio.

As per claim 14, Jenkins discloses a computer system comprising: pursuant to FAS 133. (Note abstract) the for a financial exposure and an associated hedging instrument by designating a portion of the value of the financial exposure as being hedged by the hedging instrument (see page 9-12 of paragraph 18-22) the portion being determined based on processing of data representing a price sensitivity of the hedging instrument with respect to changes in market value of an underlying financial instrument. (see page 9-12 of paragraph 18-22) in each of a plurality of sequential periods and the portion of the financial exposure based on changed price sensitivity. ("i. e, changes") of the hedging instrument. ("i. e, future periods "see page 16 paragraph 31").

Jenkins fail to explicitly teach, data is computed to redesignate.

However Jenkins teaches designation of the portion of the financial exposure based on changed price sensitivity of the hedging instrument, and it would have been obvious to one of ordinary skill in the art that redesignation of the portion of the financial exposure based on changed price sensitivity of the hedging instrument would have been simply repeating the designation process of Jenkins.

Jenkins fail to teach a host computer comprising a processor coupled to a memory comprising instructions to configure the processor to process executable instructions and data to compute a value representing a reduction in earnings volatility in a derivative account.

However Wallman discloses, a computer-based system for managing risk underlying a portfolio of assets/liabilities, includes a graphical user interface, a memory (with a custodial feature), a processor and a link to the party incurring the risk, which could include the public markets through publicly traded hedging devices such as puts

and calls. The graphical user interface enables the user to enter information about the portfolio, including a list of assets/liabilities, values for each of the assets/liabilities, shares owned or a percentage of each issue as part of the entire portfolio, and an input of what the user wishes to have limited for downside risk ("shielded or protected"). The processor analyzes the portfolio using, among other known techniques, value-at-risk and sensitivity algorithms and probabilistic analysis to determine an expected likelihood of a catastrophic loss in value at a plurality of specified levels and a likely distribution of outcomes for the portfolio over specified periods, and can also calculate the cost of hedging the risk through the purchase of instruments traded in the public markets. (see column 6 lines 10-60 and column 8 lines 35-65).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Jenkins to include host computer comprising a processor coupled to a memory comprising instructions to configure the processor to process executable instructions and data to compute a value representing a reduction in earnings volatility in a derivative account taught by Wallman in order to for an investor can manage and limit the inherent risk in a portfolio.

Response to Arguments

4.   Applicant's arguments files on 11/7/05 have been fully considered but they are moot in view of new grounds of rejections.

5.   In response to arguments as it pertains to Jenkins and Wallman.

6.   In response to arguments that Jenkins and Wallman fail to teach or suggest" designation based on a delta of the hedging instrument representing a price sensitivity of the financial exposure, and the re-designation also based on the delta of the hedging instrument and a re-designation for accounting purposes of the portion of the financial exposure and re-designation and the detailed accounting standard cited and relied upon does not disclose or even suggest a re-designation of the portion of the financial exposure and Jenkins merely discloses an initial, one-time designation.

Applicant further reiterates, as stated in the Specification, that the claimed method is provided to reduce earnings volatility that may result by following the explicit directives of Jenkins. That is, given the Jenkins disclosed guidelines an accounting entity may

experience undesirable earnings volatility regarding hedge accounting. (See
Specification page 6, line 22 - page 8, line 12) Consequently, Applicant realized,
disclosed, and claimed in the pending claims to overcome an area of concern not
addressed or contemplated by Jenkins.

Accordingly, Applicant respectfully submits that Jenkins does not disclose that for which
it is cited and relied upon.

The Office Action cites and relies upon Wallman for only disclosing a computer for
allegedly disclosing a processing data on the computer. That is, Wallman is not cited
and relied upon for disclosing any aspects of the claimed subject matter other than a
computer for processing data.

Applicant respectfully submits that the asserted combination of Jenkins and Wallman
fails to overcome the insufficient disclosure of Jenkins. The combination of Jenkins and
Wallman fails to render the claims 1 and 10 obvious under 35 USC 103(a) for at least
the reasons discussed in detail above. Again, Jenkins fails to disclose or suggest that
for which it is cited and relied upon for disclosing. Namely, Jenkins fails to disclose or
suggest re-designating a portion of a hedging instrument to reduce periodic earnings
volatility associated with a hedging transaction, as claimed by Applicant.

However the Examiner disagrees with Applicant's because these limitations were
addressed as stated in a combination of teachings Jenkins teaches processing, data
and instructions to account for a financial exposure of an associated hedge item by
designating for accounting purposes a portion. ("i. e, percentage") of the value of the
financial exposure as being hedged by the hedging instrument. (see page 9-12 of
paragraph 18-22) the portion being based on a the delta("i. e, relationship between
option price and the underlying futures contract or stock price") of the hedging
instrument representing a price sensitivity of the financial exposure with respect to
changes in market value. ("i. e, fair value") of an underlying hedge item.(see page 9-12
of paragraph 18-22) and in each of a plurality of sequential periods. ("i. e, future periods
"see page 16 paragraph 31") and for accounting purposes of the portion of the financial
exposure being hedged by the hedging instrument the delta of the hedging instrument
based on changes in price sensitivity of the hedging instrument to reduce periodic

earnings volatility associated with a hedging transaction. .(Note abstract and summary
see page 9-12 of paragraph 18-22) and account for financial exposure for an associated
hedging instrument comprising a first and a second part said first part comprising sub-
portion and a second sub-portion. (inherent with hedging instrument") wherein changes
in the value of the first part substantially offset changes in value of the financial
exposure(see page 9-12 of paragraph 18-22) and executing a computer program
module configured to receive data and process computer code instructions to determine
size of the first sub-portion relative to a size of the second sub-portion offsets the delta
of the second part and effect accounting designations whereby the first sub-portion is
designated as a hedge of at least a portion of the financial exposure designation is
based on a delta of the hedging instrument representing a price sensitivity of the
financial exposure and the second part sub-portion is not designated as a hedge of the
financial exposure and the second sub-portion is not designated as a hedge of the
financial exposure. (see page 9-12 of paragraph 18-22)
and executing a computer program module configured to receive data and process
computer code instructions to determine in each of a plurality of sequential periods a
designation for accounting purposes of the size of the first sub-portion designated as a
hedge of at least a portion of the financial exposure such that the designation is based
on a delta of the hedging instrument and the designated second sub portion continues
to substantially effect the delta of the second part to reduce periodic earnings volality
associated with accounting for a hedging transaction ("i. e, volality") of the second
part.(see page 9-12 of paragraph 18-22) ("i. e, future periods "see page 16 paragraph
31").
Wallman discloses, a computer-based system for managing risk underlying a portfolio of
assets/liabilities, includes a graphical user interface, a memory (with a custodial
feature), a processor and a link to the party incurring the risk, which could include the
public markets through publicly traded hedging devices such as puts and calls. The
graphical user interface enables the user to enter information about the portfolio,
including a list of assets/liabilities, values for each of the assets/liabilities, shares owned
or a percentage of each issue as part of the entire portfolio, and an input of what the

user wishes to have limited for downside risk ("shielded or protected"). The processor analyzes the portfolio using, among other known techniques, value-at-risk and sensitivity algorithms and probabilistic analysis to determine an expected likelihood of a catastrophic loss in value at a plurality of specified levels and a likely distribution of outcomes for the portfolio over specified periods, and can also calculate the cost of hedging the risk through the purchase of instruments traded in the public markets. (see column 6 lines 10-60).

Therefore it obviously clear that Applicant's claimed limitations were addressed with the teachings of Jenkins and Wallman .

Conclusion

7.   **THIS ACTION IS MADE FINAL**. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B Graham whose telephone number is 703-305-1874. The examiner can normally be reached on 7am to 5pm.
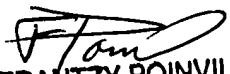
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on 703-308-0505. The fax phone numbers for the organization where this application or proceeding is assigned are for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

CG

August 19, 2006

FRANTZY POINVIL
PRIMARY EXAMINER
AU 3628